

1 longer binding.

2 7.3. *Methods of Notifying Class Members.* No later than fifty (50) days after the
3 entry of the Preliminary Approval Order, the parties shall notify Class Members of the Settlement in
4 the following manner:

5 a. Defendants will send a Class Notice via first-class U.S. mail, postage
6 prepaid to the last known address of each Class Member, as this information has been retained by
7 AHS in the ordinary course of business. Defendants may distribute Class Notice using any bulk rate
8 or pre-sorted mail rate made available by the United States Postal Service.

9 b. Defendants will make available on an internet website, to be selected by
10 Defendants and disclosed in the Class Notice, copies of the following items: the Class Notice, this
11 Agreement, a Submittal Form and information about the Review Desk process described in
12 paragraph 5.1.

13 c. Defendants will make available to Class Members, upon request received
14 by mail at a mailing address to be identified in the Class Notice, copies of the following items: (i) the
15 Class Notice; (ii) this Agreement, (iii) a Submittal Form; and (iv) a summary of the Review Desk
16 process described in paragraph 5.1.

17 d. Following notice to the Class Members, as described in paragraph 7.3.a.,
18 Defendants and/or their affiliates may communicate with Class Members by e-mail or any other
19 cost-effective means of communication.

20 7.4. At least seven (7) days prior to the Fairness Hearing, counsel for Defendants will
21 provide Lead Class Counsel and the Court with a declaration from a competent declarant stating that
22 the Class Notice Date has occurred.

23 7.5. *Exclusions from the Settlement Class.* Any Class Member may request
24 exclusion from the Settlement Class. Any Class Member who would like to request exclusion from
25 the Settlement Class must make the request in accordance with the procedures and requirements set
26 forth in the Class Notice. Beginning on the Friday immediately following the Class Notice Date and
27 on every Friday until the time for requesting exclusion has expired, Class Counsel shall provide to
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1 Defendants complete and accurate copies of all exclusion requests received during the week ending
2 on the previous Friday. In addition, within ten (10) days after expiration of the deadline for Class
3 Members to request exclusion from the Settlement Class, Class Counsel shall furnish the Opt-Out
4 List to counsel for Defendants.

5 7.6. *Written Objections to the Settlement.* Any Settlement Class Member may
6 present written objections explaining why the Settlement should not be approved as fair, reasonable,
7 or adequate, or why attorneys fees, costs, and expenses should not be awarded to Class Counsel in
8 the amount or in the manner set forth herein and in Exhibit F. Written objections must be submitted
9 in accordance with the procedures and requirements set forth in the Class Notice.

10 7.7. *Appearances at Fairness Hearing.* Any Settlement Class Member may appear at
11 the Fairness Hearing for purposes of supporting or objecting to the Settlement. Any Settlement
12 Class Member who would like to make an appearance at the Fairness Hearing must make a Fairness
13 Hearing appearance request in accordance with the procedures and requirements set forth in the
14 Class Notice. Any Settlement Class Member who does not file and serve a written objection, as
15 described in paragraph 7.6, or make a Fairness Hearing appearance request, as described in this
16 paragraph 7.7, in a timely fashion and in the appropriate manner, shall be foreclosed from objecting
17 to or seeking review of this Settlement whether by appeal or otherwise.

18 7.8. *Final Judgment and Order.* Upon the approval of the Settlement by the Court
19 after the Fairness Hearing, Defendants will make a motion (which Plaintiffs will support) for entry
20 of a Final Judgment and Order. This Final Judgment and Order shall, among other things,
21 permanently foreclose and bar all Released Claims (including Claims for additional recovery,
22 penalties, interest, attorneys fees, costs, and expenses) and all other Claims that any Settlement Class
23 Members have alleged or could have alleged in connection with this Action.

24 7.9. *Retention of Jurisdiction.* The parties shall request that the Court shall retain
25 jurisdiction over this Settlement for twenty-four (24) months after the Effective Date for purposes of
26 implementing the Settlement. After 24 months from the Effective Date, this Action shall be deemed
27 concluded and the Court's jurisdiction shall be relinquished.

1 **VIII. DETERMINATION OF ATTORNEYS FEES, COSTS, AND EXPENSES**

2 8.1. The parties have separately executed a stipulation regarding an award of attorneys
3 fees, costs, and expenses in this Action, attached hereto as Exhibit F. The parties recognize that the
4 Court has ultimate authority to approve or disapprove any award of attorneys fees, costs, and
5 expenses. Because this Settlement is for the benefit of the Settlement Class, however, the parties
6 further agree that any downward adjustment in attorneys fees, costs, and expenses that may be
7 ordered by the Court will not be a basis or reason for terminating the Settlement under any provision
8 hereof.

9 8.2. Defendants shall, no later than ten (10) days after entry of the Final Judgment and
10 Order, deposit by wire transfer the sum of attorneys fees, costs, and expenses, approved by the Court
11 and as reflected in the Final Judgment and Order, as payment for any and all services that have been
12 or will be rendered by Class Counsel in this Action other than activities to be undertaken in
13 connection with the Contractor Relations Initiative (the "Attorneys Fees & Expenses"). This wire
14 transfer will be made into a segregated, identified interest bearing money market or similar account
15 (the "Escrow Account") under the control of First Tennessee Bank, or such other agent mutually
16 agreed upon by counsel for the parties (the "Escrow Agent"), to be held by it and disbursed pursuant
17 to the terms hereof.

18 8.3 No later than ten (10) days after Lead Class Counsel transmits wiring instructions
19 pursuant to paragraph 9.1, Defendants shall send by wire transfer to Lead Class Counsel the Named
20 Plaintiffs Payment. Lead Class Counsel shall be responsible for ensuring that each Named Plaintiff
21 receives the appropriate allocation of the Named Plaintiffs Payment. Defendants will have no
22 obligation, liability, or responsibility whatsoever (i) for any taxes or other charges relating to the
23 Named Plaintiffs Payment, or (ii) to ensure that the funds are allocated among the Named Plaintiffs
24 fairly, correctly, or appropriately.

25 8.4 The Attorneys Fees & Expenses and the Named Plaintiffs Payment, together with
26 any court-approved amounts to be paid to Class Counsel for activities to be undertaken in connection
27 with the Contractor Relations Initiative, plus accrued interest on any such deposits, shall be the sole,
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1 aggregate, maximum, and gross amount Defendants or any Released Party will owe or pay to Named
2 Plaintiffs, the Class, and Class Counsel for any attorneys fees, costs, and expenses and/or any other
3 amounts of any kind whatever incurred in connection with this Action, or for any other reason
4 related to this Action. Defendants shall be reimbursed for any such taxes or charges that they are
5 required to pay on Class Counsel's or any Settlement Class Members' behalf.

6 **IX. PAYMENT METHOD AND INSTRUCTIONS**

7 9.1. No later than ten (10) days after the Effective Date, Lead Class Counsel will
8 transmit wiring instructions to the Escrow Agent for the payment of attorneys fees, costs, and
9 expenses from the Escrow Account to Class Counsel.

10 9.2. Once Lead Class Counsel's wiring instructions have been received by the Escrow
11 Agent, the Escrow Agent may cause funds on deposit in the Escrow Account to be reduced and paid
12 out in accordance with this paragraph 9.2.

13 a. Funds may be paid out of the Escrow Account for the benefit of Class Counsel
14 only upon a payment instruction from Lead Class Counsel, addressed to the Escrow Agent with
15 copies to Defendants, that is in accordance with the Final Judgment and Order, or as otherwise
16 directed by the Court.

17 b. The Escrow Agent shall make no payment pursuant to a payment
18 instruction from Lead Class Counsel unless at least three (3) Business Days have elapsed since the
19 receipt of the instruction and Defendants have interposed no objection to the payment. In the event
20 of an objection, the dispute between the parties shall be resolved by the Escrow Agent, with the
21 involvement of the Court as necessary.

22 c. Any accrued interest remaining in the Escrow Account after a payment
23 instruction from Lead Class Counsel has been executed will be paid out of the Escrow Account, after
24 deduction of the costs of the Escrow Agent, to Lead Class Counsel for the benefit of Class Counsel.

25 d. Any funds remaining in the Escrow Account after a payment instruction
26 from Lead Class Counsel has been executed, and any accrued interest thereon has been paid out, and
27 any costs of the Escrow Agent have been deducted, shall be paid out by the Escrow Agent to
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1 Defendants, for their benefit.

2 9.3. Lead Class Counsel shall be responsible for ensuring that Class Counsel receives
3 the appropriate allocation of the funds in the Escrow Account. Defendants will have no obligation,
4 liability, or responsibility whatsoever (i) for any taxes or other charges relating to money paid out of
5 the Escrow Account, or (ii) to ensure that the funds are allocated among Class Counsel fairly,
6 correctly, or appropriately. To the extent any attorney or firm serving as Class Counsel or otherwise
7 contests their or its portion of the total award for attorneys fees, costs, and expenses provided for
8 hereby or approved by the Court, such attorney or firm must look solely to Lead Class Counsel, and
9 not to Defendants, for their remedy. Under no circumstances will Defendants have any obligation
10 whatsoever arising from this Action to any attorney or firm serving as Class Counsel or otherwise
11 representing Class Members other than the obligations set forth herein.

12 9.4. Should the Agreement be terminated after the deposit of money into the Escrow
13 Account but before the Effective Date, the Escrow Account shall be closed and its funds (including
14 any interest remaining in the Escrow Account after deduction of any costs of the Escrow Agent)
15 disbursed to the Defendants, as directed by Defendants, without any further order of the Court or any
16 countersignature by any escrow agent other than the Escrow Agent.

17 9.5. Not later than thirty (30) days following the final closing of the Escrow Account,
18 the Escrow Agent shall file with the Court a statement disclosing the distribution of funds from the
19 Escrow Account.

20 9.6. Upon disbursement of all funds in the Escrow Account upon any termination of
21 the Agreement, the Escrow Agent shall be released and relieved of all liabilities and obligations, if
22 any, arising out of or relating to the administration of the Escrow Account and any such liabilities
23 and obligations shall become the liabilities of Defendants.

24 **X. RELEASE, COVENANT NOT TO SUE, AND DISMISSAL OF CLAIMS**

25 10.1. Named Plaintiffs covenant and agree, and the entire Settlement Class will be
26 deemed to have covenanted and agreed, that Named Plaintiffs and all Settlement Class Members
27 will, by operation of the Final Judgment and Order and as of the Effective Date, have fully,
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1 unconditionally, irrevocably, and completely released, waived, relinquished, and forever discharged
 2 all of the Released Parties from any and all Claims, including for an accounting, for the rescission or
 3 reformation of contracts (or any equitable theory whatsoever), and for prospective injunctive relief to
 4 mandate, cease, reform, or otherwise modify in any way the Released Parties' business practices,
 5 arising from Home Warranty Contracts concluded and events occurring during the Class Period and
 6 related to AHS's policies, procedures, and/or practices during the Class Period as alleged in, or
 7 reasonably related to those alleged in, the Action, including (i) Contractor Relations Practices; and
 8 (ii) AHS's policies, procedures and/or practices respecting the timing or promptness of responding to
 9 customer problems and situations, including expediting such responses, the diagnosis of customer
 10 problems and situations, authorizing repairs or replacements in response to customer requests,
 11 choosing between offering repairs and offering replacements, offering or requiring the acceptance of
 12 cash in lieu of repairs or replacements, denying claims (in part or in their entirety), applying contract
 13 limitations and exclusions, applying business rules for emergencies, responding to customer
 14 inquiries or escalating the attention given to such inquiries, or otherwise making decisions regarding
 15 either the application of the terms and conditions of Home Warranty Contracts, or the authorization
 16 of repair and replacement services pursuant to Home Warranty Contracts.

17 10.2. Named Plaintiffs covenant and agree, and the entire Settlement Class will be
 18 deemed to have covenanted and agreed, that Named Plaintiffs and all Settlement Class Members
 19 will, by operation of the Final Judgment and Order and as of the Effective Date, have fully,
 20 unconditionally, irrevocably, and completely released, waived, relinquished, and forever discharged
 21 all of the Released Parties from any and all Claims, including for damages based on theories of
 22 breach of express contract, breach of implied contract, reformation of contract, breach of warranty,
 23 fraud, misrepresentation, concealment, failure to disclose, fraudulent misrepresentation, negligent
 24 misrepresentation, bad faith failure to pay claims, breach of covenant or good faith and fair dealing,
 25 breach of local, state, or federal consumer protection laws or regulations, including Section 1750 and
 26 associated provisions of the California Civil Code and Sections 17200, 17500, and associated
 27 provisions of the California Business and Profession Code and other similar provisions of the laws
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1 of California and of other states, or any other legal theory whatsoever, based on events occurring
2 during the Class Period and allegedly caused by AHS's generalized policies, procedures, and/or
3 practices as described in paragraph 10.1; provided, however, that the release contained in this
4 paragraph shall not encompass any AHS customer's breach of Home Warranty Contract claim that is
5 individualized and does not depend on any allegation of generalized AHS policies, procedures,
6 practices, or any other reasonably disputed allegation of fact that applies in common across any
7 subset of the Class.

8 10.3. Named Plaintiffs covenant and agree, and the Settlement Class will be deemed to
9 have covenanted and agreed, that Named Plaintiffs and each Settlement Class Member will, by
10 operation of the Final Judgment and Order as of the Effective Date, have covenanted not to
11 participate in any Suit with respect to any Released Party arising from or related to the Claims in
12 equity released in paragraph 10.1 for a period of twenty-four (24) months beginning on the Effective
13 Date, except as to any claims for breach of this Agreement. Each Settlement Class Member
14 covenants not to participate in any Suit against the Defendants during this twenty-four (24) month
15 period unless such Settlement Class Member has first complied with the terms hereof.

16 10.4. In consideration of the benefits described herein, Named Plaintiffs agree, and
17 each Settlement Class Member shall be deemed to have agreed, to the dismissal with prejudice of
18 this Action.

19 10.5. Nothing in this Agreement is intended to, or will operate to, release or
20 compromise in any way any claims that have been brought, or may in the future be brought through
21 amendments to pleadings filed by the State of Texas or otherwise, against AHS by the State of Texas
22 in Cause No. 2006-21887, *American Home Shield of Texas, Inc. v. State of Texas* in the 295th
23 Judicial District Court of Harris County, Texas. This paragraph shall not be read to diminish or cast
24 into question the participation in this Settlement of any Settlement Class Member, including
25 Settlement Class Members from Texas.

1 **XI. ENFORCEMENT AND TERMINATION**

2 11.1. Upon any alleged material breach by AHS of its obligations hereunder, Plaintiffs
3 may, after giving AHS reasonably specific notice of the alleged material breach, and allowing a
4 period no less than forty-five (45) days for AHS to correct the alleged breach, seek an order from the
5 Court finding that AHS is in material breach of its commitments hereunder. In the event the Court
6 makes a finding of material breach, the Court shall direct AHS to come into compliance with this
7 Agreement within forty-five (45) days or such other period of time that the Court deems appropriate.
8 In seeking such an order from the Court, Plaintiffs must not oppose any AHS request to be allowed a
9 fair opportunity to present evidence and argument to the Court.

10 11.2. Defendants will have the option to terminate this Settlement, in their sole
11 discretion, if the number of requests for exclusion from the Settlement exceeds five percent (5%) of
12 the total number of Class Members. Defendants will have thirty (30) days from their receipt of the
13 Opt-Out List in which to exercise, in their sole discretion, this right to terminate. In addition, this
14 Agreement may also be terminated by Defendants, in their sole discretion, in the event that any of
15 the following occur: (i) a motion seeking the Court's preliminary approval or final approval of this
16 Settlement is denied or is granted but later reversed on appeal; or (ii) the entry of the Final Judgment
17 and Order is reversed on appeal; or (iii) the Preliminary Approval Order is modified by the Court, or
18 the Final Judgment and Order is modified by the Court or on appeal, in either case without the
19 consent of Defendants. Notwithstanding the foregoing, any downward modification of the Final
20 Judgment and Order either by the Court or on appeal, regarding the amount of attorneys fees, costs,
21 and expenses to be awarded to Class Counsel shall not give Defendants, Plaintiffs, or Class Counsel
22 the option to terminate this Agreement. Any termination pursuant to this paragraph shall be
23 accomplished by filing with the Court a notice of termination, which shall be served on Lead Class
24 Counsel. Upon the filing of such a termination notice, this Settlement shall be deemed to be
25 terminated.

26 11.3. Notwithstanding any termination of this Agreement, paragraphs 4.3, 5.3.f, 6.2,
27 6.3, 11.3, 12.4, 12.12, 12.17, 12.19, 12.20, 12.21, 12.22, and 12.23 (and the defined terms used
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therein) shall remain in full force and effect. In the event this Settlement is terminated before the Effective Date for any reason, all other paragraphs of this Agreement, and the Settlement itself, shall be deemed null and void *ab initio* and without force or effect. In such event, this Agreement shall not be offered in evidence or used in this or any other Suit for any purpose including the existence, suitability for certification, or maintenance of any purported class. In such event, this Agreement and all negotiations, statements, proceedings, and documents prepared in connection herewith (including all legal briefs and exhibits thereto) shall not be deemed or construed to be an admission or confession by any party of any fact, matter, or proposition of law and shall not be offered by anyone adverse to the Defendants for any purpose whatsoever in any Suit. In the event of such termination, all parties to this Action shall stand in the same position as if this Agreement had not been negotiated, signed, or filed with the Court, except as expressly provided in this paragraph.

11.4 The Named Plaintiffs on behalf of themselves and each Settlement Class Member covenant and agree that if any Claims are filed against any Released Party that violate any injunction entered by the Court in this Action, the Released Party shall be entitled to reimbursement from the Settlement Class Member of any reasonable attorneys fees, expenses or costs actually incurred in seeking and obtaining the enforcement of such injunction as against such Claim.

XII. MISCELLANEOUS PROVISIONS

12.1. *Entire Agreement.* This Agreement, and all Exhibits attached hereto and hereby incorporated by reference, shall supersede any previous agreements or understandings between the parties with respect to the subject matter hereof. The exemplar of the FlexPlan Contract attached as Exhibit C is provided solely for illustrative purposes, and its inclusion herein is not intended to suggest that the specific contractual terms and language appearing in Exhibit C are necessary or required for FlexPlan Contracts generally. This Agreement is the entire agreement of the parties and may not be changed, modified, or amended except in writing signed by counsel on behalf of all parties, subject to Court approval.

12.2. *Modification By Writing Only.* This Agreement may be amended or modified only by a written instrument, signed by both Class Counsel and Counsel for the Defendants, and

1 subject to Court approval. Each party will promptly consider and respond to any other party's
2 written request to modify the Settlement or this Agreement.

3 12.3. *Recommendation to Plaintiffs.* Class Counsel shall immediately recommend the
4 Settlement to Named Plaintiffs and Class Members, and shall use their best efforts to obtain their
5 approval of, support for, and participation in this Settlement.

6 12.4. *Expenses.* Except as otherwise expressly set forth herein, each party hereto will
7 pay all costs and expenses incident to its negotiation and preparation hereof and to its performance
8 and compliance with all agreements and conditions contained herein on its part to be performed or
9 complied with, including the fees, expenses, and disbursements of its counsel, independent public
10 accountants, and other advisors, whether or not the Final Judgment and Order shall have been
11 entered by the Court. Nothing herein shall require Defendants to pay out or expend any monies
12 other than as expressly provided herein.

13 12.5. *Illegality or Unenforceability of Provisions.* In the event that any one or more of
14 the provisions contained herein shall for any reason be held in whole or in part to be invalid or
15 unenforceable in any respect by any federal, state, administrative, judicial, arbitral, or other forum,
16 bar association, or committee of competent jurisdiction, such invalidity or unenforceability shall not
17 affect any other provision hereof if the parties hereto agree in writing to proceed as if such invalid or
18 unenforceable provision had never been included herein. Absent such agreement, this Agreement
19 shall be deemed terminated.

20 12.6. *Amount Paid Not a Penalty.* No consideration or amount or sum paid, credited,
21 offered, or expended by Defendants in the performance hereof constitutes a penalty, fine, punitive
22 damages, or other form of penalty for any alleged Claim or offense.

23 12.7. *Agreement Mutually Prepared; Construction.* This Agreement shall be deemed
24 to have been mutually prepared by the parties and shall not be construed against any one of them by
25 reason of authorship. Accordingly, no party hereto shall be considered to be the drafter of any of its
26 provisions for the purpose of any statutes, case law, or rule of interpretation or construction that
27 might otherwise cause any provision or paragraph hereof to be construed against its purported
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1 drafter. Otherwise, this Agreement shall be construed in accordance with the four corners of the
 2 agreement and otherwise in accordance with the contract construction rules applicable to contracts
 3 made within the State of California. References in this Agreement to: (1) "herein," "hereto,"
 4 "herewith" and "hereunder" shall refer to this Agreement as a whole; (2) any paragraph or section
 5 shall be to a paragraph hereof, unless otherwise specified; (3) Exhibits shall refer to Exhibits
 6 attached hereto; and (4) "including" shall be deemed to be immediately followed by "without
 7 limitation." The preamble is hereby incorporated herein by reference.

8 12.8. **Counterparts.** This Agreement may be executed in one or more counterparts,
 9 each of which shall be deemed an original but all of which together shall constitute one and the same
 10 instrument. For purposes hereof, a facsimile signature shall be deemed an original.

11 12.9. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of
 12 the parties, the Defendants, the Named Plaintiffs, the other Settlement Class Members, and their
 13 representatives, heirs, successors, and assigns. The parties expressly agree that the terms hereof,
 14 including all promises and covenants stated herein, are contractual and shall survive the execution
 15 hereof and entry of the Final Judgment and Order and shall continue in full force and effect
 16 thereafter in accordance with their terms.

17 12.10. **Headings and Recitals.** The headings and subheadings (if applicable) hereof are
 18 included for convenience only and shall not be deemed to constitute part hereof or to affect its
 19 construction.

20 12.11. **Waiver.** Any party may waive rights belonging to it hereunder or defaults or
 21 breaches hereof committed by the opposing party. No waiver by any party of any provision hereof
 22 or any default or breach hereunder, whether intentional or not, shall be valid, however, unless the
 23 same shall be in writing and signed by the party making such waiver. Nor shall such waiver be
 24 deemed to extend to any prior or subsequent default or breach hereunder or affect in any way any
 25 rights arising by virtue of any prior or subsequent such default or breach.

26 12.12. **Full Authority.** All counsel executing this Agreement or any related documents
 27 warrant and represent that they have full authority to do so and that they have the authority to make
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1 binding commitments in regards to the actions required or permitted to be taken hereunder in order
2 to effectuate its terms.

3 12.13. *Receipt of Advice of Counsel.* The parties acknowledge, agree, and specifically
4 warrant to each other that they have fully read this Agreement, received independent legal, tax, and
5 financial advice with respect to the advisability of entering into it and with respect to the legal effect
6 hereof. The parties further acknowledge, agree, and specifically warrant that they fully understand
7 the legal effect hereof.

8 12.14. *Opportunity to Investigate.* The parties acknowledge, agree, and specifically
9 warrant to each other that they and their counsel have had adequate opportunity to make whatever
10 investigation and inquiries are deemed necessary or desirable in connection with the subject matter
11 of the Settlement and the advisability of entering into this Agreement.

12 12.15. *Good Faith Settlement.* The parties acknowledge, agree, and specifically warrant
13 to each other that they are entering into this Agreement freely, without duress, in good faith, and at
14 arms length. The benefits, procedures and offers set forth in this Agreement constitute the entire
15 consideration provided the Settlement Class Members under this Agreement and are agreed by all
16 parties to constitute fair, reasonable and adequate consideration for the Releases and the other
17 agreements and obligations of the Settlement Class Members reflected in this Agreement. Neither
18 AHS nor any of the Released Parties shall have any obligations to any Settlement Class Member in
19 respect of the Released Claims, except as expressly provided for in this Agreement.

20 12.16. *Unknown Claims.* The parties acknowledge, agree, and specifically warrant to
21 each other that they are familiar with California Civil Code Section 1542, which provides:

22 A general release does not extend to claims which the creditor does not
23 know or suspect to exist in his favor at the time of executing the
24 release, which if known by him must have materially affected his
settlement with the debtor.

25 Being aware of California Civil Code Section 1542, all parties releasing claims hereby expressly
26 waive any and all rights they may have under this law and under any other federal or state law of
27 similar effect with respect to the matters released herein.

1 12.17. *Notices.* Unless otherwise provided herein, any notice, request, waiver,
 2 instruction, application for Court approval, or application for Court order sought in connection
 3 herewith or other document to be given by any party or to the other party shall be in writing and
 4 delivered personally or sent by registered or certified mail, postage pre-paid, with copies by
 5 facsimile to the attention of Plaintiffs' counsel or Defendants' counsel (as well as to any other
 6 recipients that the Court may specify). As of the Settlement Date, the respective representatives are
 7 as follows:

8 For Defendants: **Martin R. Boles**
 9 KIRKLAND & ELLIS LLP
 10 777 South Figueroa Street
 11 Los Angeles, California 90017
 12 Telephone: (213) 680-8400
 13 Facsimile: (213) 680-8500

14 For Plaintiffs: **Francis A. Bottini, Jr.**
 15 JOHNSON & BOTTINI, LLP
 16 655 W. Broadway, Suite 1400
 17 San Diego, CA 92101
 18 Telephone: (619) 230-0063
 19 Facsimile: (619) 233-5535

20 12.18. *Extensions of Time.* The parties may agree, subject to the approval of the Court
 21 where required, to reasonable extensions of time to carry out the provisions hereof.

22 12.19. *No Beneficiaries.* No portion hereof shall provide any rights to, or be enforceable
 23 by, any Person other than Named Plaintiffs, Class Members, Class Counsel, or Defendants. No third
 24 party beneficiaries are created or intended to be created hereby. No Plaintiff or Class Member may
 25 assign or otherwise convey any right to enforce any provisions hereof.

26 12.20. *Preservation of Privilege.* Nothing contained herein or in any order of the Court,
 27 and no act required to be performed pursuant hereto or any order of the Court, is intended to
 28 constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work
 product protection, or common interest/joint defense privilege.

 12.21. *No Public Announcement.* Except as provided herein, none of the Named
 Plaintiffs, Class Counsel, or Defendants shall, without prior written approval, make any press release

1 or other public announcement concerning this Agreement, except as and to the extent that any such
2 party shall be so obligated by law, in which case the other party shall be advised and the parties shall
3 use their reasonable efforts to cause a mutually agreeable release or announcement to be issued;
4 provided, however, that the foregoing shall not apply to communications or disclosures necessary to
5 implement the provisions hereof or to accounting and/or the Securities and Exchange Commission
6 disclosure provisions or the rules of any stock exchange.

7 12.22. *Confidentiality and Return of Documents.* With respect to all information and
8 documents obtained by, through, or from Defendants, through formal and informal discovery, Class
9 Counsel and Named Plaintiffs represent that they have not shared such information with any
10 individuals or third parties, other than the Named Plaintiffs, their legal and support staff and retained
11 experts, Judge Steven R. Denton, and the Honorable Howard B. Wiener (Ret.). All information
12 related to this Action including that reflected in Class Counsel's files shall be maintained in the
13 strictest confidence to be used only in carrying out the express terms hereof. Within forty-five (45)
14 days of the conclusion of the 24-month Contractor Relations Initiative, the Named Plaintiffs and
15 Class Counsel will return to Defendants any and all documents, data, and other materials provided
16 by Defendants in their files, including those provided in connection with the Contractor Relations
17 Initiative and all copies thereof. Upon satisfaction of this duty and responsibility, Class Counsel will
18 certify in writing that all such data, documents, and materials, and all copies thereof, have been
19 returned. Nothing herein is intended to or shall operate to prohibit: (1) disclosures by Named
20 Plaintiffs and/or Class Counsel that, after reasonable notice to Defendants, are legally required to
21 respond to legal processes or requests from government agencies, nor of any legally required
22 disclosure not specified herein; (2) disclosures to the Named Plaintiffs' and Class Counsels'
23 fiduciaries, insurers, attorneys, or financial representatives, provided an express agreement to
24 maintain the confidentiality of such information is in place and being adhered to; and (3) Class
25 Counsel from filing all documents necessary to obtain approval and confirmation of the Settlement
26 and/or to enforce the Settlement.

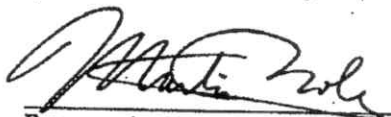
27 12.23. *Governing Law.* This Agreement shall be governed by and construed in
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1 accordance with the domestic laws of the State of California without giving effect to any choice or
2 conflict of law provision or rule (whether of the State of California or any other jurisdiction) that
3 would cause the application of the laws of any jurisdiction other than the State of California.
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1 IN WITNESS WHEREOF, Plaintiffs and Defendants have executed this Stipulation of
2 Settlement on this 30 day of September, 2008.

3
4 **DEFENDANTS**

5 American Home Shield of California, Inc.
6 American Home Shield Corporation

7 

8 By:

9 Martin R. Boles, Esq.
10 KIRKLAND & ELLIS LLP
11 777 South Figueroa Street
12 Los Angeles, CA 90017-5800
13 Telephone: (213) 680-8428
14 Facsimile: (213) 680-8500

15 **NAMED PLAINTIFFS, CLASS COUNSEL,**
16 **AND CLASS MEMBERS**

17 By:

18 Francis A. Bottini, Jr., Esq.
19 JOHNSON & BOTTINI, LLP
20 655 W. Broadway, Suite 1400
21 San Diego, CA 92101
22 Telephone: (619) 230-0063
23 Facsimile: (619) 233-5535

24 By:

25 Edward D. Chapin, Esq.
26 CHAPIN WHEELER LLP
27 550 West "C" Street, Suite 2000
28 San Diego, CA 92101
Telephone: (619) 241-4810
Facsimile: (619) 955-5318

1 IN WITNESS WHEREOF, Plaintiffs and Defendants have executed this Stipulation of
2 Settlement on this 30th day of September, 2008.
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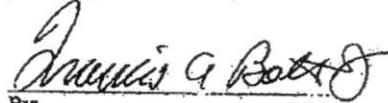
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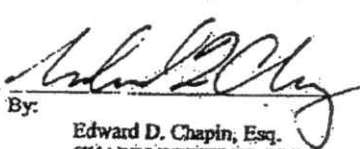
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